IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

OP.No. 33160 of 2000(V)

PETITIONER:

RAGHAVAN, AGED 65 YEARS,
S/O. LATE NARAYANAN, PALVANNAN
THADAKIL, KURIYANAD POST,
MONIPALLY, MEENACHIL TALUK, KOTTAYAM.

BY ADV. SRI.V.L.SHENOY

RESPONDENTS:
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1. **DISTRICT COLLECTOR, ALAPPUZHA.**

2. **THE SECRETARY, KUTHIATHODU GRAMA PANCHAYATH, KUTHIATHODU , THURAVUR POST.**

3. **PROJECT OFFICER, ICDS, THURAVUR CENTRE, THURAVUR POST ALAPPUZHA DISTRICT**

BY ADV. SRI.K.G.UNNIKRISHNAN NAIR
BY GOVERNMENT PLEADER SMT.SMITHA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 11/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

tss

OP. 33160/2000

ORDER ON CMP. NO.56608/2000 IN OP. 33160/2000

DISMISSED

11.09.2007 SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE PATTA NO.B1-8395/69 DT. 23.6.70 ISSUED BY TAHSILDAR, CHERTHALA IN FAVOUR OF LATE NARAYANAN.

EXT.P2:- COPY OF THE TAX RECEIPT DT. 22.9.70 ISSUED BY THURAVUR NORTH VILLAGE.

EXT.P3:- COPY OF THE TAX RECEIPT DT. 13.5.91 ISSUED BY KUTHIATHODU VILLAGE.

EXT.P4:- COPY OF THE REPRESENTATION DT. 11.2.94 MADE BEFORE THE 2ND RESPONDENT.

EXT.P5:- COPY OF THE REPRESENTATION DT. 7.4.96 MADE BEFORE THE 1ST RESPONDENT.

EXT.P6:- COPY OF THE REPRESENTATION DT. 11.8.99 MADE BEFORE THE 1ST RESPONDENT.

EXT.P7:- COPY OF THE REPRESENTATION DT. 22.11.2000 MADE BEFORE 2ND RESPONDENT.

/TRUE COPY/

P.A. TO JUDGE

tss

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.33160 OF 2000

Dated this the 11th day of September, 2007

JUDGMENT

Petitioner claims to be one of the heirs of Krishnan Narayanan, the pattadar in terms of Ext.P1. He claims that they belong to a scheduled tribe community. It is his complaint that they have been deprived of their property by Kuthiyathodu Grama Panchayat and the ICDS project of Thuravoor. The petitioner contends that two other sons of Krishnan Narayanan are not heard off for the last more than 15 years, before the institution of this writ petition and that he is the eldest available heir of Krishnan Narayanan. It is on record that representations were made to the District Collector complaining about the encroachment of the property.

2. The issue in hand is as to whether the petitioner or the aforesaid Krishnan Narayanan has been deprived of the property covered by Ext.P1 after that patta stands and whether the Grama Panchayat or the ICDS project has encroached into the said land.

This is because the complaint of the petitioner is that the structures were pulled down and a building has been erected by those respondents.

3. It has also to be recalled that under the provisions of the relevant statute, properties belonging to members of scheduled tribes cannot be transferred without the permission of the District Collector. May be that such statute may not stand in the way of an acquisition in terms of the land Acquisition Act. Whatever that be, this is an issue that could gain attention of the District Collector.

In the aforesaid circumstances, this writ petition is disposed of directing that on production of a copy of the writ petition along with a copy of this judgment, the District Collector will consider the necessity to take any action that may be due and proceed with the same in accordance with law, after affording respondents 2 and 3 opportunity of being heard. It is clarified that no findings are entered herein, particularly when

respondents 2 and 3 have not been served with notice in this writ petition. The decision as aforesaid shall be taken after affording appropriate opportunity of pre-decisional hearing to the petitioner, to respondents 2 and 3 and to any other person who may be found entitled to be heard in that regard. Let final action follow within an outer limit of nine months from the date of receipt of a copy of this judgment.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.33160 OF 2000

JUDGMENT

11th SEPTEMBER, 2007.

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